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STATE OF IDAHO

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NO. _____
AM. _____
FILED
PM

MAY 26 2015

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ATTORNEYS FOR THE STATE OF IDAHO

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO, through ATTORNEY
GENERAL LAWRENCE G. WASDEN,

Plaintiff,

vs.

CLASSMATES, INC.

Defendant.

CASE NO.

CV OC 1508826

COMPLAINT

Plaintiff, the State of Idaho, by and through Attorney General Lawrence G. Wasden, brings this action to enjoin Defendant Classmates, Inc. ("Defendant") from engaging in unfair or deceptive trade practices in the course of offering and selling consumer goods and services, and to obtain relief for consumers victimized by the Defendant's unfair or deceptive trade practices.

PARTIES

1. Plaintiff is the State of Idaho, by and through Attorney General Lawrence G. Wasden. The Attorney General is responsible for enforcement of Idaho's consumer protection laws including, but not limited to, the Idaho Consumer Protection Act, Idaho Code §§ 48-601 *et seq.*, and the Idaho Rules of Consumer Protection, IDAPA 04.02.01.

2. Defendant Classmates, Inc. is a Washington corporation located at 1501 Fourth Avenue, Suite 400, Seattle, WA 98101. Defendant does business as Classmates.com and operates the Classmates social networking website that is available to Idaho consumers.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the Defendant pursuant to Idaho Code §§ 5-514 and 48-606(2).

4. Venue is proper in Ada County pursuant to Idaho Code § 48-606(2).

ALLEGATIONS

5. The Defendant engages and has engaged in the business of offering and selling consumer goods and consumer services to Idaho consumers via the Internet through websites controlled by the Defendant. The consumer goods and consumer services that the Defendant offers and sells include subscription services to the Defendant's social networking website.

6. Consumers who enroll in Defendant's subscription services agree to pay a subscription fee and enroll for initial or trial terms of three months, one year or two years. In most cases, at the conclusion of the initial or trial term, unless the consumer has elected to cancel or previously has set his/her renewal option to "Manual" mode, his/her subscription renews automatically and the credit or debit card that the consumer used to first enroll in the subscription service(s) is automatically charged the then-current full price for the renewal. The Defendant

does not adequately disclose to consumers at the time they enroll that the subscription services automatically renew.

7. Between 2003 and 2010, the Defendant entered into a number of post-transaction marketing agreements with marketing partners named Affinion Group, Trilegiant Corporation, Webloyalty, Inc., Vertrue, Inc. and Jackpot Rewards, Inc. (hereinafter “marketing Partners”).

8. Pursuant to the Defendant’s marketing agreements with its marketing partners, the Defendant agreed to display advertisements offering free trials in its marketing partners’ membership programs, which included discount clubs, travel rewards programs, and insurance-type products. At the conclusion of the free trials, if the consumers did not cancel their memberships, the free trial converted to subscription-based programs that charged consumers monthly fees (a practice known as negative option marketing), a fact that was not adequately disclosed to consumers.

9. Some of the marketing partners’ advertisements were published in the course of consumers’ transactions with the Defendant while in other cases the advertisements were published immediately following the consumers’ transactions with the Defendant. In other instances, the advertisements were presented to consumers with the Defendant’s logo while they were in the process of completing their transactions with Defendant. This gave consumers the impression that they were still conducting business with Defendant (as opposed to the Defendant’s marketing partners).

10. In some instances, consumers were encouraged to respond to the marketing partners’ offers by clicking a “Continue” or “Yes” button in order to claim a discount or cash back reward on the consumer’s purchase with Defendant, making the advertisement appear as if it were presented by Defendant instead of a marketing partners. In other instances, consumers needed

only to enter their email addresses or check a box in order to accept the marketing partners' offer, unaware due to inadequate disclosure that, by doing so, they were agreeing to enroll in a membership program offered by the Defendant's marketing partners.

11. The Defendant did not adequately inform consumers that by responding to the various advertisements placed by Defendant's marketing partners, consumers were being directed to an entirely different website hosted by one of Defendant's marketing partners, where they entered into separate transactions for trial memberships, which consumers did not understand would result in their being billed for the services if the memberships were not cancelled.

12. As a result of the above-described practices, many of the consumers who enrolled in membership programs did so without knowing they were agreeing to enroll in a membership program that could cost them money they did not intend to spend. Many consumers also never availed themselves of the membership programs' purported benefits.

13. In order to facilitate the marketing partners' billing practices, the Defendant, without adequately obtaining permission from consumers, electronically passed consumers' credit or debit card account information to its marketing partners when the consumers enrolled in membership programs. This practice has more recently been made illegal under the Restore Online Shoppers' Confidence Act, 15 U.S.C. § 8401, *et seq.*

14. The Defendant's privacy policies were misleading, inconsistent or failed to adequately inform consumers that the Defendant shared consumers' personal information with third parties, including Defendant's marketing partners, when consumers enrolled in a membership program.

VIOLATIONS OF LAW

15. The allegations contained in paragraphs 1-14 are incorporated by reference as if fully alleged herein.

16. The Defendant has engaged in a course of trade or commerce that constitutes unfair or deceptive acts or practices, and is therefore unlawful under the Idaho Consumer Protection Act, Idaho Code § 48-603(17), and the Idaho Rules of Consumer Protection, IDAPA 04.02.01.030, in that Defendant: (a) made representations, express and implied, concerning their offer and sale of subscription services and membership programs, that had the capacity, tendency or effect, of misleading consumers; and (b) failed to state material facts in connection with their offer and sale of subscription services and membership programs and their sharing of consumers' personal information, the omission of which deceived or tended to deceive consumers.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that this Court enter an Order:

- A. Issuing a permanent injunction prohibiting Defendant, its agents, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in unfair or deceptive conduct, pursuant to Idaho Code § 48-606(1)(b);
- B. Ordering Defendant to pay restitution, pursuant to Idaho Code § 48-606(1)(c);
- C. Ordering Defendant to pay all attorney's fees and costs for the prosecution and investigation of this action, as provided by Idaho Code § 48-606(1)(f);
- D. Ordering Defendant to pay civil penalties in the amount of \$5,000 for each and every violation of the Idaho Consumer Protection Act, pursuant to Idaho Code § 48-606(1)(e); and
- E. Grant such other and further relief as the Court deems equitable and proper.

DATED May 26th, 2015.

LAWRENCE G. WASDEN
ATTORNEY GENERAL
STATE OF IDAHO

BY: 
JANE E. HOCHBERG
Deputy Attorney General